

ACT

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THE GENEVA CONVENTIONS ACT, 2012

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SIGNED this 3rd day of December, 2012.

DR. ERNEST BAI KOROMA,
President.



No. 14



2012

THE GENEVA CONVENTIONS ACT, 2012

Short title.

Being an Act to give effect to the Geneva Conventions done at Geneva on 12th August 1949 and to the Protocols additional to those Conventions done at Geneva on 8th June 1977 and for other related purposes.

[] Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

PART I—PRELIMINARY

Interpretation. 1. In this Act unless the context otherwise requires—

“Conventions” means

- (i) the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the field, done at Geneva on 12th August 1949;
- (ii) the Geneva Convention related to the Amelioration of Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea, done at Geneva on 12th August 1949;
- (iii) the Geneva Convention related to the Treatment of Prisoners of War, done at Geneva on 12th August 1949;
- (iv) the Geneva Convention related to the Protection of Civilian Persons in Time of war, done at Geneva on 12th August 1949;

“Minister” means the Minister responsible for foreign affairs;

“protected internee” means a person protected by the Fourth Convention or the First Protocol and interned in Sierra Leone;

“protected prisoner of war” means a person protected by the Third Convention or a person protected as a prisoner of war under the First Protocol;

“protecting power”, in relation to a protected prisoner of war or a protected internee, means the power or organization which is carrying out, in the interest of the power of which he is a national, or of whose forces he is, or was at any material time, a member, the duties assigned to protecting powers under the Third Convention, the Fourth Convention or the First Protocol, as the case may be;

“Protocols” means –

- (i) the Protocol, additional to the Geneva Conventions of 12th August 1949, relating to the Protection of Victims of International Armed Conflicts (Protocol I) done on 10th June 1977;
- (ii) the Protocol, additional to the Geneva Conventions of 12th August 1949, relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) done on 10th June 1977.

PART II—OFFENCES IN CONTRAVENTION OF THE CONVENTIONS AND PROTOCOL 1 AND OTHER RELATED MATTERS

2. (1) A person of whatever nationality commits an offence if that person, whether within or outside Sierra Leone commits, aids abets or procures any other person to commit a grave breach specified in—

- (a) article 50 of the First Geneva Convention;
- (b) article 51 of the Second Geneva Convention;

Grave breaches of the Conventions and the First Protocol.

- (c) article 130 of the Third Geneva Convention;
- (d) article 147 of the Fourth Geneva Convention;
- (e) paragraph 4 of article 11 or paragraph 2, 3, or 4 of Article 85 of the First Protocol.

(2) A person who commits an offence under subsection (1) is liable on conviction—

- (a) in the case of a grave breach which involves the willful killing of a person protected by the relevant Convention or Protocol to imprisonment for life;
- (b) in the case of any other grave breach, to imprisonment for a term not less than 10 years and not exceeding twenty five years.

(3) A person who in Sierra Leone commits, abets, aids or procures any other person to commit a breach of the Conventions or Protocols not covered under subsection (1) commits an offence and is liable on conviction to imprisonment for a term not less than 10 years and not exceeding twenty five years.

(4) A citizen of Sierra Leone who outside Sierra Leone, commits or aids, abets or procures the commission by another person of a breach of any of the Conventions or Protocols not covered under subsection (1) commits an offence and is liable on conviction to imprisonment for a term not less than 10 years and not exceeding 25 years.

(5) Where a person commits an offence under this section outside Sierra Leone, that person may be tried and punished as if the offence was committed in Sierra Leone.

3. (1) The High Court shall have jurisdiction to try an offence committed under section 2. Jurisdiction of Courts.

(2) A court martial may try a person for an offence which under the Armed Forces of Sierra Leone Act is triable by that court although the offence is also an offence under section 2. Act No. 34 of 1961.

4. (1) A military commander or a person effectively acting as a military commander shall be responsible for an offence under section 2 committed by forces under his effective command and control if he fails to exercise such command and control over such forces where- Responsibility of commanders and other superiors.

- (a) he knew or owing to the circumstances at the time should have known that the forces were committing or about to commit such offence and
- (b) he failed to take all necessary and reasonable measures within his powers to prevent or repress the commission of the offence or to submit the matter to the competent authorities for investigation and prosecution.

(2) A superior officer who does not fall under subsection (1) shall be responsible for an offence under section 2 committed by subordinates under his effective command and control if he fails to exercise such authority and control over his subordinates where-

- (a) he knew or consciously disregarded information which clearly indicated that the subordinates were committing or about to commit such offence;

- (b) the offence concerns activities that were within his command and control;
- (c) he failed to take necessary and reasonable measures within his power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

(3) A person responsible under this section for an offence under section 2 shall, for the purposes of this Part be regarded as having aided, abetted, counseled or procured the commission of the offence, and is liable on conviction to imprisonment for a term not less than ten years and not exceeding 25 years.

PART III-LEGAL PROCEEDINGS

Notice of trial.

5. (1) A court shall not try a protected prisoner of war or a protected internee unless it is satisfied that the protecting power and the legal representative of the prisoner of war or internee have been given at least twenty-one days notice of the trial by the prosecutor.

- (2) The notice referred to in subsection (1) shall include-
 - (a) the full name and description of the accused person including the accused person's date of birth, profession or trade;
 - (b) the accused person's rank and army, regimental, personal or serial number, if the accused person is a protected prisoner of war;

- (c) the place of detention, internment or residence of the accused person;
- (d) the offence with which the accused person is charged ; and
- (e) the court before which the trial is to take place and the time and place of the trial.

(3) A document which is—

- (a) signed on behalf of the protecting power or by the prisoner's representative or by the accused person , and
- (b) an acknowledgement of receipt by that protecting power, representative or accused person of the notice, shall be sufficient evidence that the notice required has been served on the protecting power, representative or accused person unless the contrary is proven.

(4) In this section the expression “prisoner's representative” in relation to a particular protected prisoner of war at a particular time, means the person by whom the functions of prisoners' representative within the meaning of Article 79 of the Third Convention were exercisable in relation to that prisoner at the camp or place at which the prisoner was, at or last before the time, detained as a protected prisoner of war.

6. A court which adjourns a trial for the purpose of enabling the requirements of this Act to be complied with, may remand the accused person in custody for the period of the adjournment. Adjournment.